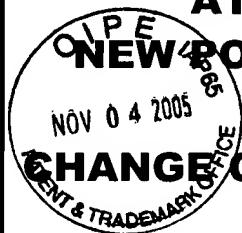


## HAMILTON BROOK, SMITH &amp; REYNOLDS, P.C.

JCS

**REVOCATION OF POWER OF  
ATTORNEY WITH  
NEW POWER OF ATTORNEY  
and  
CHANGE OF CORRESPONDENCE  
ADDRESS**



|                                      |                          |
|--------------------------------------|--------------------------|
| <i>Application/Patent Number</i>     | 5,848,396                |
| <i>Filing/Issue Date</i>             | December 8, 1998         |
| <i>First Named Inventor/Patentee</i> | Thomas A. Gerace         |
| <i>Confirmation Number</i>           |                          |
| <i>Group Art Unit</i>                | 2765                     |
| <i>Examiner Name</i>                 | M. Irshadullah           |
| <i>Attorney Docket Number</i>        | 2128.1001-000 (FOI96-01) |

|              |  |
|--------------|--|
| <i>Title</i> | METHOD AND APPARATUS FOR DETERMINING BEHAVIORAL PROFILE OF A COMPUTER USER |
|--------------|--|

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint the following practitioner(s): Arthur A. Gasey, Esq. (Registration No. 35,150)

OR

I hereby appoint the practitioners associated with the Customer Number: \_\_\_\_\_

Please change the correspondence address for the above-identified application to:

Niro, Scavone, Haller & Niro  
181 West Madison Street  
Suite 4600  
Chicago, Illinois 60602-4515

Other \_\_\_\_\_

COMPLETED

Please direct all telephone calls and facsimiles to:

Name Arthur A. Gasey, Esq. Tel. No. (312) 236-0733 Fax No. (312) 236-3137

I am the:

Applicant/Inventor.

Authorized representative of the Assignee, Be Free, Inc. (formerly Freedom of Information, Inc.), of the entire interest. See 37 C.F.R. § 3.71. A Statement under 37 C.F.R. § 3.73(b) is enclosed.

Authorized representative of the Assignee, [ FILL IN WITH NAME OF ASSIGNEE ], together with [ FILL IN WITH NAME OF ASSIGNEE ], of the entire interest. A Statement under 37 C.F.R. § 3.73(b) is enclosed.

**SIGNATURE of Applicant or Assignee of Record**

|              |  |
|--------------|--|
| Signature    | <u>Pamela M. Yeaton</u>                          |
| Name & Title | <u>Pamela M. Yeaton, Director, Legal Affairs</u> |
| Date         | <u>10/28/05</u>                                  |



Docket No. 2128.1001-000 (Formerly FOI96-01)

**STATEMENT UNDER 37 C.F.R. § 3.73(b)**

Inventor(s): Thomas A. Gerace

Application No./Patent No.: 5,848,396 Filed/Issue Date: December 8, 1998

For: METHOD AND APPARATUS FOR DETERMINING BEHAVIORAL PROFILE  
OF A COMPUTER USER

Be Free, Inc. (formerly Freedom of Information, Inc.), a corporation,  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is

- A.  the assignee of the entire right, title and interest in the patent application identified above; or  
B.  an assignee together with [ ] of the entire right, title and interest in the patent application identified above.

The right, title and interest of the above-named assignee in the patent application identified above is established by virtue of:

A.  An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.

OR

B.  A chain of title from the inventor(s) of the patent application identified above, to the current assignee as shown below:

1. From: Thomas A. Gerace To: Freedom of Information, Inc.  
The document was recorded in the United States Patent and Trademark Office at Reel 8507, Frames 0761-0763, or a copy thereof is attached.
2. From: Freedom of Information, Inc. To: Be Free, Inc.  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature: Pamela M. Yeaton

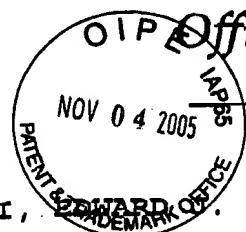
Name: Pamela M. Yeaton

Title: Director, Legal Affairs

Date: 10/28/05

State of Delaware

PAGE 1



Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "FREEDOM OF INFORMATION, INC.", CHANGING ITS NAME FROM "FREEDOM OF INFORMATION, INC." TO "BE FREE, INC.", FILED IN THIS OFFICE ON THE THIRTY-FIRST DAY OF MARCH, A.D. 1999, AT 11 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

COPY



*Edward J. Freel*  
Edward J. Freel, Secretary of State

2586084 8100

9662028

991126025

AUTHENTICATION:

03-31-99

TOTAL P.02

**CERTIFICATE OF AMENDMENT  
OF THE  
RESTATE CERTIFICATE OF INCORPORATION  
OF  
FREEDOM OF INFORMATION, INC.  
Pursuant to Section 242  
of the General Corporation Law of  
the State of Delaware**

Freedom of Information, Inc. (hereinafter called the "Corporation"), organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify as follows:

By unanimous written consent of the Board of Directors of the Corporation a resolution was duly adopted, pursuant to Sections 141 and 242 of the General Corporation Law of the State of Delaware, setting forth an amendment to the Restated Certificate of Incorporation of the Corporation and declaring said amendment to be advisable. A majority of stockholders of the common stock of the Corporation and two-thirds of stockholders of the Series A Convertible Participating Preferred Stock of the Corporation duly approved said proposed amendment by written consent in accordance with Sections 228 and 242 of the General Corporation Law of the State of Delaware, and written notice of such consent has been given to all stockholders who have not consented in writing to said amendment. The resolution setting forth the amendment is as follows:

**RESOLVED:** That Article 1 of the Restated Certificate of Incorporation be and hereby is deleted in its entirety and the following Article First inserted in lieu thereof:

**FIRST:** The name of this corporation is Be Free, Inc.

**RESOLVED:** That Articles 4, 5 and 6 of the Restated Certificate of Incorporation of the Corporation be and hereby are deleted in their entirety and the following Articles 4, 5 and 6 are inserted in lieu thereof:

"4. The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 55,000,000 shares of Common Stock, \$01 par value per share ("Common Stock") and (ii) 24,496,522 shares of Preferred Stock, \$01 par value per share ("Preferred Stock").

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The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. Preferred Stock

The Preferred Stock shall be comprised of (i) 11,300,000 shares designated as "Series A Convertible Participating Preferred Stock" (hereinafter referred to as the "Series A Preferred Stock"), and (ii) 13,196,522 shares designated as "Series B Convertible Participating Preferred Stock" (hereinafter referred to as the "Series B Preferred Stock"). The Series A Preferred Stock and Series B Preferred Stock shall be collectively referred to herein as the "Preferred Stock." The preferences, restrictions and other matters relating to the Preferred Stock are as follows:

Section I. Dividends.

(a) The holders of shares of Series B Preferred Stock shall be entitled to receive, out of funds legally available therefor, cumulative annual dividends when and as they may be declared from time to time by the Board of Directors of the Corporation at an annual rate per share equal to eight percent (8%) of the original purchase price of \$1.89443 paid per share of the Preferred Stock (which amount shall be subject to adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series B Preferred Stock (the "Preferred Dividends")). Such dividends shall be deemed to accrue on the Series B Preferred Stock and be cumulative, whether or not earned or declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. Any accumulation of dividends on the Series B Preferred Stock shall not bear interest. If such cumulative dividends in respect of any prior or current annual dividend period shall not have been declared and paid or if there shall not have been a sum sufficient for the payment thereof set apart, the deficiency shall first be fully paid before any dividend or other distribution shall be paid or declared and set apart with respect to any class of the Corporation's capital stock, now or hereafter outstanding.

(b) The holders of the Preferred Stock shall be entitled to receive, out of funds legally available therefor dividends at the same rate as dividends (other than dividends paid in additional shares of Common Stock) are paid with respect to the Common Stock (treating each share of Preferred Stock as being equal to the number of shares of Common Stock into which each such share of Preferred Stock could be converted pursuant to the provisions of Section 4 hereof with such number determined as of the record date for the determination of holders of Common Stock entitled to receive such dividend) (the "Participating Dividends"). So long as any shares of the Preferred Stock shall be outstanding, the Corporation shall not declare or pay or set apart for payment any dividends or make any other distributions on, or make any payment on account of the purchase, redemption, exchange or other retirement of

any other class of stock or series thereof of the Corporation ranking on liquidation junior to the Preferred Stock unless each of the holders of the Preferred Stock shall have been paid all Participating Dividends in full in cash with respect to each share of Preferred Stock.

Section 2. Liquidation, Dissolution or Winding Up.

(a) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, each holder of outstanding shares of Series B Preferred Stock shall be entitled to be paid out of the assets of the Corporation available for distribution to stockholders, whether such assets are capital, surplus, or earnings as follows, simultaneously with holders of Series A Preferred Stock as set forth in Section 2(b) hereof, but before any amount shall be paid or distributed to the holders of any class of Common Stock or of any other stock ranking on liquidation junior to the Series B Preferred Stock, an amount equal to: the sum of (A) \$1.89443 per share (adjusted appropriately for stock splits, stock dividends and the like), plus (B) declared but unpaid dividends to which the holders of outstanding shares of Series B Preferred Stock are entitled pursuant to Section 1 hereof (the sum of such amounts hereinafter referred to as the "Series B Liquidation Amount").

(b) In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, each holder of outstanding shares of Series A Preferred Stock shall be entitled to be paid out of the assets of the Corporation available for distribution to stockholders, whether such assets are capital, surplus, or earnings as follows, simultaneously with holders of Series B Preferred Stock as set forth in Section 2(a) hereof, but before any amount shall be paid or distributed to the holders of any class of Common Stock or of any other stock ranking on liquidation junior to the Series A Preferred Stock, an amount equal to: (x) the sum of (A) \$1.00 per share (adjusted appropriately for stock splits, stock dividends and the like), plus (B) declared but unpaid dividends to which the holders of outstanding shares of Series A Preferred Stock are entitled pursuant to Section 1 hereof (the sum of such amounts hereinafter referred to as the "Series A Liquidation Amount"); provided, however, that if, upon any liquidation, dissolution or winding up of the Corporation, the assets to be distributed among the holders of the Series B Preferred Stock and Series A Preferred Stock shall be insufficient to pay the full amounts to be distributed under Sections 2(a) and 2(b) hereof, then, subject to the provisions of Section 2(c) hereof, the holders of the Series B Preferred Stock and Series A Preferred Stock shall share ratably in any distribution of assets in proportion to the full respective preferential amounts to which they are entitled.

(c) After such payments shall have been made in full to the holders of the Series B Preferred Stock and Series A Preferred Stock, or funds necessary for such payments shall have been set aside by the Corporation in trust for the account of holders of Preferred Stock so as to be available for such payments, the remaining assets available for distribution shall be distributed among the holders of the Series B Preferred Stock, the holders of the Series A Preferred Stock, and the Common Stock, ratably in proportion to the number of shares of

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Common Stock held by them (with the holders of Preferred Stock being treated for this purpose as holding the number of shares of Common Stock into which such holder could have converted such holder's shares of Preferred Stock immediately prior to such event of liquidation, dissolution or winding up pursuant to the provisions of Section 4(a) below); provided, however, that if, as a result of payments otherwise to be made to holders of Preferred Stock pursuant to this Section 2, the assets available for distribution to holders of the Common Stock would be less than \$1.00 per share (adjusted appropriately for stock splits, dividends and the like); then amounts otherwise distributable to holders of Series A Preferred Stock pursuant to this Section 2(c) will be reduced to the extent necessary to permit the distribution of \$1.00 per share to holders of the Common Stock.

(d) The amount to be distributed per share of Series A Preferred Stock determined pursuant to Sections 2(b) and (c) above shall in no event exceed \$3.00 (adjusted appropriately for stock splits, stock dividends and the like). The amount to be distributed per share of Series B Preferred Stock determined pursuant to Sections 2(a) and 2(c) above shall in no event exceed \$5.6833 (adjusted appropriately for stock splits, stock dividends and the like).

(e) Notwithstanding Sections 2(a), 2(b) and 2(c) above, in the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, each holder of Preferred Stock shall be entitled to be paid out of the assets available for distribution to stockholders, whether such assets are capital, surplus or earnings, the greater of (x) the amount determined pursuant to Section 2(a) or 2(b) above, as the case may be, or (y) an amount equal to the portion of the assets of the Corporation remaining for distribution to stockholders which such holder would have received if each share of Preferred Stock had been converted into the number of shares of Common Stock issuable upon the conversion of a share of Preferred Stock immediately prior to any such liquidation, dissolution or winding up of the Corporation after taking into account the rights of holders of any other class or series of capital stock of the Corporation (including the Common Stock) entitled to share in such distribution in either case, plus any Preferred Dividends or any declared but unpaid dividends to which the holders of outstanding shares of Preferred Stock are entitled pursuant to Section 1 hereof.

(f) A consolidation, merger or capital reorganization of the Corporation (except (i) into or with a wholly-owned subsidiary of the Corporation or (ii) a merger in which the beneficial owners of the Corporation's outstanding capital stock immediately prior to such transaction hold no less than a majority of the voting power in the resulting entity) or a sale of all or substantially all of the assets of the Corporation shall be regarded as a liquidation, dissolution or winding up of the affairs of the Corporation within the meaning of this Section 2 and all consideration payable to the stockholders of the Corporation (in the case of a merger or consolidation), or all consideration payable to the Corporation, together with all other available assets of the Corporation (in the case of an asset sale), shall be distributed to the holders of capital stock of the Corporation in accordance with Sections 2(a) and 2(b) above.

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The Corporation shall promptly provide to the holders of shares of Preferred Stock such information concerning the terms of such merger, consolidation or asset sale and the value of the assets of the Corporation as may reasonably be requested by the holders of Preferred Stock. The amount deemed distributed to the holders of Preferred Stock upon any such merger or consolidation shall be the cash or the value of the property rights or securities distributed to such holders by the acquiring person, firm or other entity. The value of such property, rights or other securities shall be determined in good faith by the Board of Directors of the Corporation.

Section 3. Voting Power.

Except as otherwise expressly provided herein or as required by law, the holder of each share of Preferred Stock shall be entitled to vote on all matters. Each share of Preferred Stock shall entitle the holder thereof to such number of votes per share as shall equal the number of shares of Common Stock into which each share of Preferred Stock is then convertible. Except as otherwise expressly provided herein (including without limitation the provisions of Section 6 hereof) or as required by law, the holders of shares of the Preferred Stock and the Common Stock shall vote together as a single class on all matters.

Section 4. Conversion. The holders of the Preferred Stock shall have the following conversion rights:

(a) Voluntary Conversion. Each holder of shares of Preferred Stock shall be entitled, at any time and from time to time after the date hereof, to cause any or all of its shares of Preferred Stock to be converted into such number of fully paid and nonassessable shares of Common Stock as is obtained by (i) multiplying the number of shares of Preferred Stock to be converted by the Original Purchase Price of such share, and (ii) dividing the result by a conversion price equal to the Original Purchase Price of such share (or, in case an adjustment of such price has taken place pursuant to the further provisions of this Section 4, then by the conversion price as last adjusted and in effect at the date any share of Preferred Stock is being surrendered for conversion (such price, or such price as last adjusted, being referred to herein as the "Conversion Price"). The Original Purchase Price of the Series A Preferred Stock is \$1.00 and the Original Purchase Price of the Series B Preferred Stock is \$1.89443. If a holder of Preferred Stock elects to convert Preferred Stock, any declared but unpaid dividends on such shares of Preferred Stock (including any Participating Dividends, but excluding any Preferred Dividends), shall, to the extent permitted by applicable law, be paid in full by the Corporation in connection with such conversion.

(b) Automatic Conversion. Each share of Preferred Stock outstanding shall automatically, and without the requirement of any consent of any holder, be converted into the number of shares of Common Stock into which such shares are convertible at the then effective Conversion Price for such series of Preferred Stock upon the closing of an

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underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), covering the offer and sale of Common Stock of the Corporation to the public at a price per share of not less than \$3.98 (adjusted appropriately for stock splits, stock dividends and the like) in which the proceeds received by the Corporation, net of underwriting discounts and commissions, equal or exceed \$10,000,000 (a "Qualified Public Offering") without any further action by the holders thereof and whether or not certificates representing such shares are surrendered to the Company. In connection with any conversion under this Section 4(b), each holder of Preferred Stock shall be entitled to receive, upon consummation of the Qualified Public Offering giving rise to such conversion, payment in full of all Preferred Dividends (if applicable) and any declared but unpaid dividends due on such shares.

(c) Mandatory Conversion. If at any time less than 25% of the Original Series A Shares (as defined in Section 5(a)) or less than 25% of the shares of Series B Preferred Stock originally issued to the holders under that certain Series B Convertible Preferred Stock Purchase Agreement dated March 31, 1999 (the "Original Series B Shares") (in each case, adjusted appropriately for stock splits, stock dividends and the like) remain outstanding (with respect to each such series, "Remaining Shares" and each individually a "Remaining Share"), then the Company may elect to convert, without the consent of such holder, each Remaining Share of such series of Preferred Stock into the number of shares of Common Stock into which such Remaining Share is convertible at the then effective Conversion Price. If immediately prior to such conversion there are declared but unpaid dividends on the Remaining Shares, such dividends shall, to the extent permitted by applicable law, be paid in full by the Corporation prior to such conversion upon written notice to the holders of Remaining Shares of such series.

(d) Conversion Procedures. Any holder of Preferred Stock converting such shares into shares of Common Stock, whose shares are automatically converted pursuant to Section 4(b) or whose shares are mandatorily converted pursuant to Section 4(c), shall surrender the certificate or certificates representing the Preferred Stock being converted, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto), at the principal executive office of the Corporation or the offices of the transfer agent for the Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the Preferred Stock by the Corporation, accompanied by written notice of conversion (the "Conversion Notice"). The Conversion Notice shall (i) in the case of a conversion pursuant to Section 4(a) specify the number of shares of Preferred Stock to be converted, (ii) specify the name or names in which such holder wishes the certificate or certificates for Common Stock and for any Preferred Stock not to be so converted to be issued, (iii) include payment of any applicable transfer tax and (iv) specify the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion. Upon surrender of a certificate representing Preferred Stock for conversion, the Corporation shall issue and send

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by hand delivery, by courier or by first class mail (postage prepaid) to the holder thereof or to such holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. In the event that there shall have been surrendered a certificate or certificates representing Preferred Stock, only part of which are to be converted, the Corporation shall issue and send to such holder or such holder's designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of Preferred Stock which shall not have been converted.

(e) Effective Date of Conversion. The issuance by the Corporation of shares of Common Stock upon a conversion of Preferred Stock into shares of Common Stock made at the option of the holder thereof pursuant to Section 4(a) hereof shall be effective as of the surrender of the certificate or certificates for the Preferred Stock to be converted, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto). The issuance by the Corporation of shares of Common Stock upon a conversion of Preferred Stock into Common Stock pursuant to Section 4(b) hereof shall be deemed to be effective immediately prior to the closing of the Qualified Public Offering. The issuance by the Corporation of shares of Common Stock upon a conversion of Preferred Stock into Common Stock pursuant to Section 4(c) shall be deemed to be effective on the date of or on which the Company delivers to the holder of such Preferred Stock the notice specified in Section 4(c).

On and after the effective date of conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock.

(f) Fractional Shares. The Corporation shall not be obligated to deliver to holders of Preferred Stock any fractional share of Common Stock issuable upon any conversion of such Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(g) Reservation of Common Stock. The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of Preferred Stock as herein provided, free from any preemptive rights or other obligations, such number of shares of the Common Stock as shall from time to time be issuable upon the conversion of all the Preferred Stock then outstanding. The Corporation shall prepare and shall use its reasonable business efforts to obtain and keep in force such governmental or regulatory permits or other authorizations as may be required by law, and shall comply with all requirements as to qualification or listing of the Common Stock, in order to enable the Corporation lawfully to issue and deliver to each holder of record of Preferred Stock such number of shares of its Common Stock as shall from time to time be

sufficient to effect the conversion of all Preferred Stock then outstanding and convertible into shares of Common Stock.

(h) Adjustments to Conversion Price. Subject to subsection (V) below, the applicable Conversion Price in effect from time to time shall be subject to adjustment as follows:

(I) Stock Dividends, Subdivisions and Combinations. Upon the issuance of additional shares of Common Stock as a dividend or other distribution on outstanding Common Stock, the subdivision of outstanding shares of Common Stock into a greater number of shares of Common Stock, or the combination of outstanding shares of Common Stock into a smaller number of shares of the Common Stock, the Conversion Price for each series of Preferred Stock shall, simultaneously with the happening of such dividend, subdivision or combination or split be adjusted by multiplying the then effective Conversion Price for such series of Preferred Stock by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such event and the denominator of which shall be the number of shares of Common Stock outstanding immediately after such event. An adjustment made pursuant to this Section 4(h) (I) shall be given effect, upon payment of such a dividend or distribution, based upon the number of shares outstanding on the record date for the determination of stockholders entitled to receive such dividend or distribution (on a retroactive basis) and, in the case of a subdivision or combination, immediately as of the effective date thereof.

(II) Sale of Common Stock. In the event the Corporation shall at any time or from time to time while any shares of Preferred Stock are outstanding, issue, sell or exchange any shares of Common Stock (including shares held in the Corporation's treasury, but excluding (i) shares of Common Stock issued to officers, directors, employees or consultants of the Corporation pursuant to any benefit plan approved by the Board of Directors (the "Excluded Shares"), (ii) 3,498,000 shares of Common Stock issued pursuant to warrant agreements dated August 28, 1998, (iii) up to 33,000 shares of Common Stock issued upon exercise of warrants issued in connection with the placement of subordinated debt by the Company (the "Subordinated Debt Warrant Shares"), or 700,000 shares of Common Stock issued upon conversion of the Series A Preferred Stock issued upon exercise of warrants dated September 29, 1998 ("Series A Warrant Shares"), (iv) issuance of shares of Common Stock upon conversion of the Preferred Stock, (v) issuance of shares of Common Stock described in Section 4(h)(I), and (vi) issuance of shares of Common Stock described in Section 4(h) (III), for a consideration per share less than the applicable Conversion Price in effect for any series of Preferred Stock immediately prior to the issuance, sale or exchange of such shares (any such issuance, sale or exchange hereinafter referred to as a "Dilutive Transaction"), then, and thereafter successively upon the consummation of any

subsequent Dilutive Transaction, the Conversion Price in effect immediately prior to the subsequent Dilutive Transaction for such series of Preferred Stock shall forthwith be reduced to an amount determined by multiplying such Conversion Price by a fraction:

(A) the numerator of which shall be (i) the number of shares of Common Stock of all classes outstanding immediately prior to the Dilutive Transaction (excluding treasury shares but including all shares of Common Stock issuable upon conversion or exercise of any outstanding Preferred Stock, options, warrants, rights or convertible securities), plus (ii) the number of shares of Common Stock which the net aggregate consideration received by the Corporation for the total number of such additional shares of Common Stock so issued would purchase at the Conversion Price for such series of Preferred Stock prior to adjustment, and

(B) the denominator of which shall be (i) the number of shares of Common Stock of all classes outstanding immediately prior to the Dilutive Transaction (excluding treasury shares but including all shares of Common Stock issuable upon conversion or exercise of any outstanding Preferred Stock, options, warrants, rights or convertible securities), plus (ii) the number of such additional shares of Common Stock so issued.

(III) Sale of Options, Rights or Convertible Securities. In the event the Corporation shall at any time or from time to time while the Preferred Stock is outstanding, issue options, warrants or rights to subscribe for shares of Common Stock (other than any options, warrants or rights to subscribe for Excluded Shares, the Subordinated Debt Warrant Shares or the Series A Warrant Shares), or issue any securities convertible into or exchangeable for shares of Common Stock, for a consideration per share (determined by dividing the Net Aggregate Consideration (as determined below) by the aggregate number of shares of Common Stock that would be issued if all such options, warrants, rights or convertible securities were exercised or converted to the fullest extent permitted by their terms) less than the Conversion Price in effect for any series of Preferred Stock immediately prior to the issuance of such options or rights or convertible or exchangeable securities, the Conversion Price for such series of Preferred Stock in effect immediately prior to the issuance of such options, warrants or rights or securities shall be reduced to an amount determined by multiplying such applicable Conversion Price by a fraction:

(A) the numerator of which shall be (i) the number of shares of Common Stock of all classes outstanding immediately prior to the issuance of such options, rights or convertible securities (excluding treasury shares, but including all shares of Common Stock issuable upon conversion or exercise of

any outstanding Preferred Stock, options, warrants, rights or convertible securities), plus (ii) the number of shares of Common Stock which the total amount of consideration received by the Corporation for the issuance of such options, warrants, rights or convertible securities plus the minimum amount set forth in the terms of such security as payable to the Corporation upon the exercise or conversion thereof (the "Net Aggregate Consideration") would purchase at the applicable Conversion Price for such series of Preferred Stock prior to adjustment, and

(B) the denominator of which shall be (i) the number of shares of Common Stock of all classes outstanding immediately prior to the issuance of such options, warrants, rights or convertible securities (excluding treasury shares but including all shares of Common Stock issuable upon conversion or exercise of any outstanding Preferred Stock, options, warrants, rights or convertible securities), plus (ii) the aggregate number of shares of Common Stock that would be issued if all such options, warrants, rights or convertible securities were exercised or converted.

(IV) Expiration or Change in Price. If the consideration per share provided for in any options or rights to subscribe for shares of Common Stock or any securities exchangeable for or convertible into shares of Common Stock, changes at any time, the Conversion Price in effect at the time of such change shall be readjusted to the Conversion Price which would have been in effect at such time had such options or convertible securities provided for such changed consideration per share (determined as provided in Section 4(h)(III) hereof), at the time initially granted, issued or sold; provided, that such adjustment of the Conversion Price will be made only as and to the extent that the Conversion Price effective upon such adjustment remains less than or equal to the Conversion Price that would be in effect if such options, rights or securities had not been issued. No adjustment of the Conversion Price shall be made under this Section 4 upon the issuance of any additional shares of Common Stock which are issued pursuant to the exercise of any warrants, options or other subscription or purchase rights or pursuant to the exercise of any conversion or exchange rights in any convertible securities if an adjustment shall previously have been made upon the issuance of such warrants, options or other rights. Any adjustment of the Conversion Price shall be disregarded if, as, and when the rights to acquire shares of Common Stock upon exercise or conversion of the warrants, options, rights or convertible securities which gave rise to such adjustment expire or are canceled without having been exercised, so that the Conversion Price effective immediately upon such cancellation or expiration shall be equal to the Conversion Price in effect at the time of the issuance of the expired or canceled warrants, options, rights or convertible securities, with such additional adjustments as would have been made to that

Conversion Price had the expired or canceled warrants, options, rights or convertible securities not been issued.

(V) Mergers and Other Reorganizations. If at any time or from time to time there shall be a capital reorganization of the Common Stock (other than a subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 4) or a merger or consolidation of the Corporation with or into another Corporation (other than a merger, consolidation, treated as a liquidation pursuant to Section 2(b) hereof), then, as a part of and as a condition to the effectiveness of such reorganization, merger, consolidation, lawful and adequate provision shall be made so that the holders of the Preferred Stock shall thereafter be entitled to receive upon conversion of the Preferred Stock the number of shares of stock or other securities or property of the Corporation or of the successor Corporation resulting from such merger or consolidation, to which a holder of Common Stock deliverable upon conversion would have been entitled on such capital reorganization, merger, or consolidation.

In any such case, appropriate provisions shall be made with respect to the rights of the holders of the Preferred Stock after the reorganization, merger, or consolidation to the end that the provisions of this Section 4 (including without limitation provisions for adjustment of the Conversion Price and the number of shares purchasable upon conversion of the Preferred Stock) shall thereafter be applicable, as nearly as may be, with respect to any shares of stock, securities or assets to be deliverable thereafter upon the conversion of the Preferred Stock.

(VI) Notices. In each case of an adjustment or readjustment of the Conversion Price for any series of Preferred Stock, the Corporation will furnish each holder of such series of Preferred Stock with a certificate, prepared by the chief financial officer of the Corporation, showing such adjustment or readjustment, and stating in detail the facts upon which such adjustment or readjustment is based.

(i) Other Adjustments. In the event the Corporation shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation other than shares of Common Stock, then and in each such event lawful and adequate provision shall be made so that the holders of Preferred Stock shall receive upon conversion thereof in addition to the number of shares of Common Stock receivable thereupon, the number of securities of the Corporation which they would have received had their Preferred Stock been converted into Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the conversion date (calculated in accordance with Section 4(e) hereof), retained such securities receivable by them as aforesaid during such period, giving

application to all adjustments called for during such period under this Section 4 as applied to such distributed securities.

If the Common Stock issuable upon the conversion of the Preferred Stock shall be changed into the same or different number of shares of any class or classes of stock, whether by reclassification or otherwise (other than a subdivision or combination of shares or stock dividend provided for above, or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 4), then and in each such event the holder of each share of Preferred Stock shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable upon such reorganization, reclassification or other change, by holders of the number of shares of Common Stock into which such shares of Preferred Stock might have been converted immediately prior to such reorganization, reclassification or change, all subject to further adjustment as provided herein.

#### Section 5. Redemption.

(a) Holders of a majority of the Series A Preferred Stock may request that up to one-third of the number of outstanding shares of Series A Preferred Stock on March 31, 2004 (the "First Redemption Date") be redeemed by the Corporation by giving 90 days prior written notice to the Corporation. In addition, holders of a majority of the Series A Preferred Stock may request that (i) up to an additional one-third of the Series A Preferred Stock outstanding on the First Redemption Date be redeemed by the Corporation at any time on or after March 31, 2005 (the "Second Redemption Date"), and (ii) all of the yet unredeemed Series A Preferred Stock be redeemed by the Corporation at any time on or after March 31, 2006 (the "Third Redemption Date," and together with the First Redemption Date and the Second Redemption Date, the "Redemption Dates" and each individually a "Redemption Date"), in each case by giving 180 days prior written notice to the Corporation. In the event of any such notice, the Corporation shall redeem the applicable number of the outstanding shares of the Series A Preferred Stock on the respective Redemption Date, pro rata from each of the holders thereof. Any redemption hereunder shall be at a per share redemption price equal to \$1.00 (adjusted appropriately for stock splits, stock dividends and the like), plus any declared but unpaid dividends to which the holders of outstanding shares of Series A Preferred Stock are entitled pursuant to Section 1 hereof (the "Series A Redemption Price") to be paid by the Company to the holder of record against surrender to the Company by such holder of certificates representing such shares accompanied by duly executed stock powers endorsed in blank.

(b) Holders of a majority of the Series B Preferred Stock may request that the Corporation redeem from such holders on each of the Redemption Dates one-third of the shares of Series B Preferred Stock outstanding on the First Redemption Date, or such lesser amount as may be outstanding on such Redemption Date, by giving at least 90 days' prior

written notice to the Corporation. In the event of any such notice, the Corporation shall redeem the applicable number of the outstanding shares of the Series B Preferred Stock on the respective Redemption Date, pro rata from each of the holders thereof. Any redemption hereunder shall be at a per share redemption price equal to \$1.89443 (adjusted appropriately for stock splits, stock dividends and the like), plus any declared but unpaid dividends (to which the holders of outstanding shares of Series B Preferred Stock are entitled pursuant to Section 1 hereof (the "Redemption Price")) to be paid by the Company to the holder of record against surrender to the Company by such holder of certificates representing such shares accompanied by duly executed stock powers endorsed in blank.

(c) If the Corporation does not have sufficient funds legally available to redeem all shares for which redemption is required on the respective Redemption Dates, then it shall redeem such shares on a pro rata basis among the holders of the Preferred Stock in proportion to the shares of Preferred Stock then held by them to the extent possible and shall redeem the remaining shares to be redeemed as soon as sufficient funds are legally available. In the event that the Corporation fails to timely redeem shares for which redemption is requested pursuant to Section 5(a) or 5(b) for any reason whatsoever, then during the period from the respective Redemption Date through the date on which such shares are redeemed, the Series A Redemption Price or Series B Redemption Price, as the case may be, for such shares shall bear interest at a per annum rate of 8%, which such interest rate shall increase by an additional 1% per annum at the end of each six (6) month period thereafter until the Series A Redemption Price or Series B Redemption Price, as the case may be (and any interest thereon), is paid in full, subject to a maximum interest rate of 15% per annum and with such interest to be compounded annually.

Section 6. Restrictions and Limitations. So long as no less than 5,900,000 shares of Preferred Stock remain outstanding (adjusted appropriately for stock splits, stock dividends and the like), the Corporation shall not without the affirmative vote or written consent of the holders of a majority of the then outstanding shares of the Preferred Stock:

(i) Redeem, purchase or otherwise acquire for value (or pay into or set aside for a sinking fund for such purpose) any of the Common Stock of any class or any other capital stock of the Corporation junior to the Preferred Stock (other than the Preferred Stock), except that this provision will not prohibit the Corporation from repurchasing or redeeming any shares of capital stock from employees or former employees of the Corporation who have entered into employment or repurchase agreements under which the Corporation has the option to repurchase such shares upon the occurrence of certain events, including the termination of employment;

(ii) Authorize or issue, or obligate itself to issue, any shares of Preferred Stock or other equity security senior to or on a parity with any series of the Preferred

Stock as to liquidation preferences, redemptions or dividend rights or with special voting rights, including any reclassification of the Common Stock with such rights.

(iii) Increase or decrease (other than by conversion as permitted hereby) the total number of authorized shares of Preferred Stock or any other equity security senior to or on a parity with the Preferred Stock as to liquidation preferences, redemption or dividend rights or with any special voting rights;

(iv) Authorize any merger or consolidation of the Corporation with or into any other Corporation or entity (except (i) into or with a wholly-owned subsidiary of the Corporation or (ii) a merger in which the beneficial owners of the Corporation's outstanding capital stock immediately prior to such transaction hold no less than a majority of the voting power in the resulting entity or (iii) a transaction in which the consideration to be received (x) with respect to shares of Series A Preferred Stock is not less than \$3.75 per share) and (y) with respect to shares of Series B Preferred Stock is not less than \$5.6833 per share), authorize the liquidation, dissolution or winding up of the Corporation, or authorize the sale of substantially all or any substantial portion of the assets of the Corporation; or

(v) Acquire any other business or company, whether by purchase of assets, purchase of stock or otherwise, or acquire any proprietary interest, directly or indirectly, in any corporation, association, trust, partnership, joint venture or other entity.

Section 7. No Reissuance of Preferred Stock. No share or shares of the Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be canceled, retired, and eliminated from the shares which the Corporation shall be authorized to issue. The Corporation may from time to time take such appropriate corporate action as may be necessary to reduce the authorized number of shares of the Preferred Stock accordingly.

Section 8. Notices of Record Date. In the event (i) the Corporation establishes a record date to determine the holders of any class of securities who are entitled to receive any dividend or other distribution, or (ii) there occurs any capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger or consolidation of the Corporation, and any transfer of all or substantially all of the assets of the Corporation to any other corporation, or any other entity or person, or any voluntary or involuntary dissolution, liquidation or winding up of the Corporation, the Corporation shall mail to each holder of Preferred Stock at least twenty (20) days prior to the record date or the expected effective date, as the case may be, specified therein, a notice specifying (a) the date of such record date for the purpose of such dividend or distribution and a description of such dividend or distribution, (b) the date on which any such

rganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and (c) the time, if any, that is to be fixed, as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property payable upon such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up.

Section 9. Other Rights. Except as otherwise provided in this Restated Certificate of Corporation, each share of Preferred Stock and each share of Common Stock shall be identical in all respects, shall have the same powers, preferences and rights, without preference of any such class or share over any other such class or share, and shall be treated as a single class of stock for all purposes.

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5. Intentionally omitted.

6. Intentionally omitted."

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President as of this 31st day of March, 1999.

FREEDOM OF INFORMATION, INC.

By: Gordon B. Hoffstein  
Gordon B. Hoffstein  
President

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TOTAL P.16